

E-FILED 7/23/07

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

YUMIN LIU AND KEVIN T. DAI,

Plaintiffs,

v.

ALBERTO GONZALES, et al.,

Defendants.

Case Number C 07-00883 RS

ORDER

On March 1, 2007, the Court entered an order to show cause why plaintiffs should not be granted the relief they requested.¹ Defendants' response asserts the Court lacks subject matter jurisdiction over this matter and requests dismissal, albeit not in a formal motion to dismiss. Defendants' jurisdictional arguments appear to have been rejected by every court in this district that has considered them, and this Court sees no basis to deviate from the considered analysis in those decisions. See, *Qui v. Chertoff*, 2007 WL 1831130, *2 n.3 (N.D. Cal. June 25, 2007) (collecting cases from not less than ten judges in this district finding jurisdiction exists on facts

¹ It appears that only plaintiff Dai's immigration status may be in question.

1 materially indistinguishable from the facts here). Accordingly, the Court will not invite
2 defendants to make a motion to dismiss. It appears, however, that the issues raised in the
3 complaint likely are amenable to resolution on summary judgment. The parties are directed,
4 therefore, to file cross-motions for summary judgment as promptly as practicable.

5 IT IS SO ORDERED.

6
7 Dated: July 23, 2007


RICHARD SEEBORG
United States Magistrate Judge

THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY PROVIDED TO:

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Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.

Dated: July 23, 2007

/s/ BAK
Chambers of Magistrate Judge Richard Seeborg